

ORDINANCE NO. ____-2018

AN ORDINANCE AMENDING KITSAP COUNTY CODE TITLE 10 REGARDING THE LAUNCH AND LANDING OF UNMANNED AIRCRAFT SYSTEMS IN MILITARY INSTALLATION PROTECTION OVERLAY AREAS

BE IT ORDAINED:

Section 1. General Findings. The Kitsap County Board of Commissioners makes the following findings:

1. Unmanned Aircraft Systems, also known as unmanned aircraft, UAS, or drones, are devices that are used for flight in the air with no onboard pilot.
2. Unmanned aircraft systems may be as simple as a remotely controlled model aircraft used for recreational purposes or as complex as surveillance aircraft ~~flying over hostile areas in warfare.~~
- ~~2.3.~~ Unmanned aircraft systems have grown in popularity and sophistication over the last decade.
- ~~3.4.~~ Unmanned aircraft systems are frequently ~~prohibited~~ limited in United States general airspace because of the threat they present to other aircraft and under the Federal Aviation Administration (FAA) Modernization and Reform Act of 2012, FAA has developed regulations to regulate and register drone flight throughout the United States airspace.
- ~~4.5.~~ UAS flight in airspace over Naval Base Kitsap-Bangor, Naval Base Kitsap-Bremerton, Naval Base Kitsap Keyport, and Naval Base Kitsap Manchester is currently restricted by an FAA Temporary Flight Restriction (TFR), which prohibits the use of UAS over the installations from the surface to 400 feet without an FAA authorization. In addition, airspace over NBK-Bangor is Prohibited Airspace (P-51). Naval Base Kitsap Commanding Officer authorization is also required for the use of UAS over Naval Base Kitsap.
- ~~6.~~ Unmanned aircraft systems are used for a series of lawful activities by private companies, citizens and public agencies in ways that increase efficiency of service delivery, reduction in costs or just general entertainment.
- ~~5.7.~~ Unmanned aircraft systems may also be operated in ways that intentionally or unintentionally cause harm and event disruption and may be utilized in the planning and execution of a wide variety of criminal activity.
- ~~6.8.~~ Unmanned aircraft systems have the capability to monitor and record individuals, groups and populations, and while not currently common in the consumer-market, intercept and record data generated by individuals, such as cell-phone calls and text messaging.
- ~~7.9.~~ Unmanned aircraft systems ~~can~~ may intentionally or unintentionally create unique public safety and national security threats to certain facilities, locations, installations, and operations including those at Naval Base Kitsap and their critically important assets.

8-10. The Kitsap County Board of Commissioners (Board) are aware of incidents of unauthorized use of unmanned aircraft system use over military installations in Kitsap County.

11. The FAA has jurisdiction over flight in navigable airspace, but Kitsap County has authority to enact code provisions to regulate the launching and landing UAS within the boundaries of unincorporated Kitsap County to protect and secure public health, safety and welfare.

9-12. The US Navy has requested Kitsap County consider restrictions on the use of unmanned aircraft systems within 3,000 feet of their five local military installations.

Section 2. Procedural Findings. The Board conducted the following actions in development of this ordinance.

1. In late 2016 and early 2017, Kitsap County began exploring options to regulate drones within Kitsap County as requested by the US Navy. Staff reviewed existing regulations pertaining to other military installations in the United States, including the City of St. Mary's and the community of Kings Bay in Georgia, and FAA regulations.
2. In September 2017, at a regularly schedule briefing, the Board directed staff to prepare a draft ordinance, specifically requesting that an exemption process be included to allow the lawful flight of UAS within 3,000 feet of the military installation.
3. In June of 2018, Kitsap County prepared an initial draft ordinance and briefed the Board on the details of such ordinance in July 2018.
4. Between June and September 2018, Kitsap County staff met with multiple stakeholders, including commercial and hobbyist UAS users, the FAA and Navy. Feedback from these discussions included, but were not limited to, concerns about the need for such regulations, the impacts a formal exemption process would have on lawful UAS usage, the costs and staff time necessary to implement the exemption process, and the boundaries of the 3,000-foot limitation areas.
5. Following these discussions, Kitsap County met with the US Navy to discuss revised regulations that streamlined the exemption process and amended the 3,000-foot limitation boundary near Keyport and Manchester.
6. A revised draft ordinance was released in February 2019. The revised exemption process proposes to only require electronic notification to the US Navy and Sheriff prior to UAS flights. Once this form is submitted, it is proposed that UAS users were approved to fly immediately.
7. Public notice of this February 2019 draft was provided to all stakeholders, interested parties and property owners within the proposed limitation boundaries.
8. On March 12, 2019, an Open House of this revised draft was held at the Kitsap County Administration Building. Comments received at the open house included, but were not limited to, the documented need for any limitations, overlap with existing FAA regulations, the Sheriff's role in enforcement, the process and content of the electronic exemption form, and constitutional issues with any limitations.

9. In April 2019, Kitsap County issued a revised draft ordinance with revisions to improve the clarity of the new exemption process.

10. On May 13, 2019, the Board of County Commissioners held a public hearing on the April 2019 proposed draft.

Section 3. Substantive Findings. Upon review, the Board of Commissioners finds the following:

1. TO BE DETERMINED BY BOARD OF COMMISSIONERS

NEW SECTION. Section 4. A new Chapter 10.62, “Unmanned Aircraft Systems,” is added to Title 10 of Kitsap County Code, “Peace, Safety and Morals,” to read as follows:

Sections:

- 10.62.010 Purpose
- 10.62.020 Definitions
- 10.62.030 Prohibitions
- 10.62.040 Exemptions
- 10.62.050 Specific Exemptions – Types – Approval Criteria
- 10.62.060 Violation – Penalty – Allowed measures to enforce
- 10.62.070 Impoundment and forfeiture

10.62.010 Purpose

Unmanned aircraft systems (UAS) have the potential to be operated in a manner that poses a threat to the citizens of Kitsap County. “Threat” means a reasonable likelihood of: unauthorized surveillance; unauthorized access to or disclosure of classified or otherwise lawfully protected information; disruption of or damage to a communication system; interference with a covered government operation; or delivery or carriage of weapons, explosives, or other hazardous materials. To help protect the security of our military installations and their operations and provide increased buffering and response times, Kitsap County Code limits the use of UAS as detailed in this Chapter.

10.62.020 Definitions

For the purpose of this chapter, the following terms, phrases, words and their derivatives shall be construed as specified in this section. Where terms, phrases and words are not defined, they shall have their ordinary accepted meanings within the context with which they are used. The most current version of the English Webster’s Dictionary shall be considered as providing ordinary accepted meanings.

A. “Civil unmanned aircraft systems” shall mean an unmanned aircraft or unmanned aircraft system operated by any person for purposes including, but not limited to, hobby or recreational, commercial and/or in furtherance of, or incidental to, any business or media service or agency.

B. “Public unmanned aircraft systems” shall mean an unmanned aircraft or unmanned aircraft system operated by any military, public law enforcement, public safety or civil engineering agency, or their agents, for government-related purposes.

C. "Land" shall mean the returning of any UAS or model airplane to the ground after a flight of any duration.

D. "Launch" shall mean the automated lifting of any UAS or mode airplane from the ground for a flight of any duration.

E. "Military installation" shall mean all land within base boundaries of Naval Base Kitsap-Bremerton, Naval Base Kitsap- Bangor, Naval Base Kitsap-Keyport, Naval Hospital Bremerton and the Naval Base Kitsap-Manchester.

F. "Military installation protection overlay" shall mean a general 3,000-foot ~~buffer~~-area measured from the property boundary of any military installation as shown in KCC 10.62.030.

G. "Unmanned aircraft" shall mean an aircraft, including, but not limited to, an aircraft commonly known as a drone or model airplane, that is operated without the possibility of direct human intervention from within or on the aircraft.

H. "Unmanned aircraft system" shall mean an unmanned aircraft and associated elements, including, but not limited to, any communication links and components that control the unmanned aircraft.

10.62.030 Prohibitions

No person shall launch or land any Civil Unmanned Aircraft System, including those classified by the FAA as model aircraft, within military installation protection overlay areas. The specific boundaries of such overlay areas are shown below (KCC 10.62.030.A-E). These prohibitions apply to the areas in the military installation protection overlay areas and do not apply to operations approved by FAA and Naval Base Kitsap on installation property.

10.62.030.A Naval Base Kitsap – Bangor

INSERT MAP

10.62.030.B Naval Base Kitsap – Keyport

INSERT MAP

10.62.030.C Naval Base Kitsap – Naval Hospital

INSERT MAP

10.62.030.D Naval Base Kitsap – Bremerton

INSERT MAP

10.62.030.E Naval Base Kitsap – Manchester

INSERT MAP

10.62.040 Exemptions

These exemptions shall only apply to the launching and landing of UAS in Kitsap County jurisdiction and do not authorize their use over military installations or within the military

installation property boundaries. Those authorizations are to be separately approved by FAA and Naval Base Kitsap.

A. All public unmanned aircraft systems are exempt from this chapter.

B. All civil unmanned aircraft systems may be approved for either a short-term or blanket exemption upon application to Kitsap County prior to flight as provided herein. The county shall provide an electronic means submitting short-term exemption applications and shall notify the US Navy of all applications at the time of submission.

1. Short -Term exemption. A short-term exemption will allow the launching and landing of UAS within a military installation protection overlay area for a period of up to 12 hours. Each application must include:

- a. Physical address of the specific property(s) the UAS shall be launched from and landed upon.
- b. Name of the applicant
- c. Contact information including phone number, email and mailing address of the applicant.
- d. Date and time of the proposed flight.
- e. Purpose of the UAS flight(s).
- f. Drone Manufacturer
- g. FAA Registration Number
- h. Acknowledgement of FAA and US military rules regarding flights over military installations or other no-fly zones.

Once a complete application is submitted, the US Navy and Sheriff shall be electronically notified and the applicant may launch immediately.

2. Blanket exemption. A blanket exemption shall allow the launching and landing of UAS for goods or merchandise transport by a business or commercial venture with a valid Washington State business license and an approved FAA registration within a military installation protection overlay area for a period of up to two (2) years. Blanket exemptions may be renewed for additional two (2) year periods beginning 90 days before their expiration.

10.62.050 Violation – Penalty – Allowed measures to enforce.

As authorized by RCW 36.32.120(7), any person who violates the provisions of this Chapter may be charged with a misdemeanor, and upon conviction may be imprisoned for up to sixty (60) days and be subject to a fine of not more than \$1,000.00. Law enforcement retains their discretion to issue a warning in appropriate circumstances.

With the exception of federal property within the boundaries of military installations, a law enforcement officer is authorized to take the following actions to enforce this Chapter where allowed by federal and state law:

- A. Detect, identify, monitor, and track an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo, to determine if it poses a threat to a military installation, its assets or operation, without prior consent.
- B. Disable or disrupt control of the operation of an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that poses an imminent threat to a military installation, its asset or operations without prior consent.
- C. Seize or exercise control over an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that poses an imminent threat to a military installation, its asset or operations without prior consent.
- D. Interdict or otherwise confiscate an unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that is operating in an overlay area if imminent threat to a military installation, its asset or operations without prior consent.

10.62.060 Impoundment and forfeiture.

An unmanned aircraft system, unmanned aircraft, or unmanned aircraft's attached system, payload, or cargo that is in violation of this Chapter and is seized, confiscated, disrupted, disabled or interdicted pursuant to Section 10.62.050 may be subject to impoundment and forfeiture where allowed by federal or state law.

Section 5. Effective Date. This ordinance is effective immediately upon approval.

Section 6. Severability. If any provision of this ordinance or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance or the application of the provision(s) to other persons, entities or circumstances is not affected.

Section 7. Scrivener's Error. Should any amendment to Kitsap County Code Title 10 that was passed by the Board during its deliberations on this Ordinance be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

DATED this ____ day of _____ 2019.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

EDWARD E. WOLFE, Chair

ATTEST:

ROBERT GELDER, Commissioner

Dana Daniels
Clerk of the Board

CHARLOTTE GARRIDO, Commissioner

Approved as to form:

Deputy Prosecuting Attorney

DRAFT